Office-Supreme Court, U.S.
FILED
FEB 18 1963
JOHN F. DAVIS, CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM

No. 842

SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, ATLANTIC, GULF, LAKES & INLAND WATER DISTRICT, PUERTO RICO DIVISION, AFL-CIO,

Petitioner,

vs.

VALENCIA BAXT EXPRESS, INC., MARITIME TRUCKING COMPANY, INC., and LABOR RELATIONS BOARD OF PUERTO RICO,

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PUERTO RICO

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SEAFARERS INTERNATIONAL UNION OF NORTH AMERICA, ATLANTIC, GULF, LAKES AND INLAND WATER DISTRICT, PUERTO RICO DIVISION,

Petitioner,

vs.

VALENCIA BANT EXPRESS COMPANY, INC., MARITIME TRUCKING COMPANY, INC. and the LABOR RELATIONS BOARD OF PUERTO RICO,[1]

Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE COMMONWEALTH OF PUERTO RICO

Petitioner prays that a writ of certiorari issue to review the judgment of the Supreme Court of the Commonwealth of Puerto Rico, entered in the above-entitled case on October 25, 1962.

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[1] In the proceeding before the Supreme Court of the Commonwealth of Puerto Rico, Case Number JRT 62-2, the Labor Relations Board of Puerto Rico appeared as petitioner, in the name of and in representation of the herein petitioner. The Union was Intervenor in said proceeding. In accordance with the case of *Mine Workers* v. *Eagle Picher Co.*, 325 U. S. 335 (1945), the Union is the petitioner in the instant writ and the Labor Board and the respondent companies, the respondents herein.

Opinion Below

The judgment of the Supreme Court of the Commonwealth of Puerto Rico was made and entered on October 25, 1962, is unreported and is printed in Appendix A hereto, page 2a *et seq.*

Jurisdiction

The judgment of the Supreme Court of the Commonwealth of Puerto Rico was entered on October 25, 1962 (Appendix A, p. 1a). A timely petition for rehearing was filed on November 6, 1962 (Appendix B, pp. 68-82)[2] and denied on November 20, 1962 (Appendix B, p. 83). The jurisdiction of this Honorable Court is invoked under 28 U. S. C. §1258(3) and this writ is brought in accordance with Rules 19, 21, 22 and 23 of this Honorable Court.

Questions Presented

1. Is an arbitration award of a quasi legislative nature, issued under the authority of a strike settlement agreement, enforceable under Section 301 of the Labor Management Relations Act, 29 U. S. C. Section 185(a)?

2. Is the field of enforcement of quasi legislative labor arbitration awards preempted by Section 301 of the Labor Management Relations Act, 29 U. S. C. Section 185(a)?

Statute Involved

The statutory provision involved in the instant Writ of Certiorari is Section 301 of the Labor Management Relations Act, 29 U. S. C. § 185(a).

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[2] Appendix B is the certified translation of the documents filed in Case No. JRT 62-2, before the Supreme Court of the Commonwealth of Puerto Rico.

Statement

This case involves the enforcement of a valid arbitration award rendered pursuant to a settlement agreement entered into by the herein petitioner and the respondent companies, with the purpose of bringing to an end a strike at the business concerns of the respondent companies.

The facts of this case are as follows: A strike at the respondents companies[3] came to an end on March 17, 1961 when petitioner herein, the certified representative of the employees involved, and the respondent companies, signed a settlement agreement entitled "Memorandum of Settlement".[4] Said settlement agreement provided among other things for the commencement of negotiations a week afterwards, and "* * * If agreement can not be reached within 15 days * * *" then "the entire matter shall be submitted to arbitration" (Appendix A, p. 2a). In compliance with said agreement the employees returned to work and negotiations commenced. Negotiations failed and pursuant to said settlement agreement, petitioner herein requested the appointment of an arbitrator. An arbitrator was duly appointed by the Secretary of Labor of the Commonwealth of

[3] There is no doubt that such a strike took place. However, the court below expresses that "the record does not say what were the specific demands or disputes object of the stoppage." The court below accordingly interprets that the phrase "the entire matter" must be the "state of strike" (Appendix A, p. 9a). From the record before the court below it appears that the cause of the strike was an *impasse* in the negotiations of a new contract. See Appendix B, p. 31. Furthermore, it is clear that the strike came to an end upon the signing of the settlement agreement, therefore the phrase "the entire matter" could not possibly refer, as the court below interprets it, to the strike, which in any event by that time no longer continued. This, and other objections which petitioner herein has to the judgment of the court below, appear from the Motion for Reconsideration filed (Appendix B, pp. 68-82). Note that the case was decided upon a Motion to Dismiss, without the court having given the Board opportunity to remit the whole record of the arbitration proceedings.

Puetro Rico (Appendix A, p. 2a). Hearings were conducted by the arbitrator and on August 10, 1961, he rendered the award object of this proceeding (Appendix B, pp. 9-34). The respondent companies have refused to gomply with the award, notwithstanding the requests made by petitioner herein and by the Board (Appendix B, p. 4).

A. Proceedings Before the Supreme Court of the Commonwealth of Puerto Rico, Case Number 62-2

On January 31, 1962, the Labor Relations Board of Puerto Rico, hereinafter referred to as the Board, filed before the Supreme Court of the Commonwealth of Puerto Rico (herein referred to as the court below) a petition for enforcement of an award rendered by a duly appointed arbitrator pursuant to a "Memorandum of Settlement" signed by petitioner herein and the respondent companies on March 17, 1961. Said petition for enforcement of the award was filed by the Board in the name of and in representation of the petitioner herein under the provisions of the Labor Relations Law of Puerto Rico, 29 L. P. R. A. Section 70(2)(e). On February 7, 1962, petitioner herein filed a motion for leave to intervene. On February 14, 1962, the court below issued an order requesting that the respondent companies show cause why the arbitration award should not be enforced (Appendix A, p. 7a).

B. Proceedings Before the United States District Court for the District of Puerto Rico [4]

On February 20, 1962, the respondent companies filed a petition for removal before the said Federal District Court (Appendix A, p. 7a). Petitioner herein filed a motion for leave to intervene (Appendix C, pp. 8-9) and intervention was granted as per order of the court of March 28, 1962 (Appendix C, p. 22). The petition for removal was denied by order of the court of May 3, 1962 (Appendix C, p. 28).

[4] Appendix C hereto, is a certified copy of the proceedings before the United States District Court for the District of Puerto Rico.

The court in its "Memorandum of Law" of the same date held itself without jurisdiction to entertain the petition for removal on the basis of its prior holding in *In re Valencia Baxt Express, Inc.*, 199 F. Supp. 103 (1962), and under the authority of *Boston Printing Pressmen* v. *Potter Press*, 141 F. Supp. 553 (1956), *aff'd* in 247 F. 2d 787 (1957); *cert. denied*, 355 U. S. 817 (1957). Rehearing was filed by the respondent companies and denied on July 10, 1962 (Appendix C, p. 32).

C. Continuation of Proceedings Before the Supreme Court of the Commonwealth of Puerto Rico

Once the case was remanded by the federal district court to the Supreme Court of the Commonwealth of Puerto Rico, on May 9, 1962 petitioner herein filed a Motion before the court below to inform the court that the case had been remanded and thus the court had jurisdiction to proceed. Petitioner herein again requested leave to intervene (Appendix B, pp. 38-39). The Board expressed no objection to said intervention (Appendix A, p. 7a). The respondent companies then filed a Motion to Dismiss (Appendix A, p. 7a) alleging that on the basis of the *Boston Printing Pressmen* case, *supra*, the applicable federal rule was to the effect that the courts could not enforce quasi-legislative awards and that such being the federal substantive law, the court below was bound to adhere to it. Both the Union and the Board filed their opposition to said Motion to Dismiss, alleging, in synthesis, that the doctrine established by this Court in *Charles Dowd Box* v. *Courtney*, 368 U. S. 502 (1962), was to the effect that Section 301 of the Labor Management Relations Act, did not deprive state courts of jurisdiction in suits in violation of agreements; that the jurisdiction of the federal courts was supplementary to the traditional jurisdiction of state courts; that section 9(2)(c) of the Labor Relations Act of Puerto Rico, 29 *L. P. R. A. Section* 70, under which the instant proceeding was begun in no way precluded the enforcement of this award and on the contrary, the specific

Section of the local law was the clear legislative expression referred to in the opinion rendered by the federal district court in the *Boston Printing* case, *supra*, at p. 557. Consequently that this field not having been preempted, the court below could order the enforcement of this award.

The court below rendered judgment in the above entitled case and held that the award was to be "enforced as to that part which declared (1) that the collective agreement between the Union and the Employers expired on November 30, 1960; (2) That the Union timely notified the employers of their desire to enter into negotiations and that this notice precluded the automatic renewal on December 1, 1960 of the existing agreements. *Applying to these employers the federal law,* coupled with the serious doubts stirred as to whether the submission clause authorized or not the arbitrator to draw up himself, binding on both parties, all the clauses of a new collective agreement, the Court will not enforce that part of the award that consists in said new collective agreement." (Appendix A, p. 45a).[5] (Emphasis supplied.)

A Motion for Reconsideration was filed by petitioner herein requesting that the court reconsider and clarify its judgment, and was denied on November 20, 1962 (Appendix A, p. 170).

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[5] In other words, the court below did not enforce any provisions of the award. Sentences numbered (1) and (2) in effect constitute conclusions of fact. The remainder of the dispositive part of the opinion and judgment, regarding the doubts it has as to the extent of the "submission" was never raised by the respondent companies, and in any event any doubts regarding this aspect, would have to be decided in favor of the coverage of the submission. *United Steel Workers of America* v. *Warrior and Gulf Navigation Company*, 363 U. S. 574 (1960).

Reasons for Granting the Writ

On March 17, 1961, a strike by members of the Petitioner herein in two transportation companies operating in interstate commerce in San Juan, Puerto Rico, was settled by virtue of a strike settlement agreement. Under the authority of such strike settlement, an arbitration award of a quasi-legislative nature was issued.

The Supreme Court of the Commonwealth of Puerto Rico denied enforcement of the award relying on the decision of the Court of Appeals for the First Circuit in the case of *Boston Printing Pressmen* v. *Potter Press, supra.* Said decision was interpreted by the court below as resolving that as a matter of federal law Section 301 of the Labor Management Relations Act, did not provide any substantive law whereby quasi-legislative arbitration awards may be enforced.

Petitioner herein respectfully submits that, to the extent that the decision in the *Boston Printing case, supra*, may have had the meaning or implications attributed to it by the court below, it has been drastically modified by the decision of this Honorable Court in *Retail Clerks Local 128* v. *Lion Dry Goods, Inc.*, 369 U. S. 17 (1962).

The decision in the *Lions* case, unmistakenly provides for the enforcement of a strike settlement of a quasi legislative nature. In granting such enforcement in said case this Honorable Court used unequivocal language to the effect that:

> We find then from a reading of the words of § 301 (a), both in isolation and in connection with the statute as a whole, no basis for denying jurisdiction of the action based upon the alleged violation of the strike-settlement agreement * * * If this kind of strike settlement were not enforceable under § 301 (a), responsible and stable labor relations would suffer and the attainment of the labor policy objectives of minimizing disruption of interstate commerce would be made

> more difficult. It is no answer that in a particular case the agreement might be enforceable in state courts: a main goal of § 301 was precisely to end "checkboard jurisdiction * * *"

The question herein presented may be considered novel in this sense: while the *Lion's* case goes as far as granting enforcement of a quasi legislative strike settlement, the case at bar involves the enforcement of an arbitration award of a quasi legislative nature, issued under the authority of a valid strike settlement agreement.

It seems only logical that if as a matter of federal substantive law, a strike settlement is enforceable under Section 301, by the same token an arbitration award issued under such strike settlement, which is enforceable by itself, according to the doctrine of the *Lion's* case, should likewise be enforceable under Section 301. To reach a contrary conclusion would almost amount to eliminate the powerful weapon of strike settlements as, probably the most effective means of terminating a strike of an economic nature.

In many instances the parties to a labor strike may be willing to submit voluntarily to compulsory arbitration in order to solve the economic issues involved. If the interpretation of Section 301 in this case prevails, any agreements reached upon would then be unenforceable. This interpretation would result in a never ending source of industrial strife, exactly the contrary of what the policy of the law in this field of labor management relations contemplates.

The holding of the court below in the instant case, to the effect that as a matter of federal law, quasi-legislative arbitration awards are not enforceable, is contrary to the doctrine established by this Court in the *Lion's* case, and it also creates an evil of gigantic proportions which endangers the stability itself of the labor relations field.

The best example of the above stated assertion is the instant case: A certified union calls an economic strike as

a result of an *impasse* in the bargaining process. In good faith, the Union settles the strike on the basis of the aforementioned strike settlement agreement. The Union, in full compliance with its contractual obligations and of its duties as the exclusive representative of the workers, strictly follows the procedure established in the strike settlement agreement subscribed by the respondent companies and by petitioner herein. Such procedure culminates in the arbitration award involved in this case. Are the workers and the Union to be penalized for complying with their contractual obligations? Should a strike settlement agreement entered into for the promotion and preservation of industrial peace be allowed to provide employers with a means to evade legal responsibility toward a certified union and its members?

These question dramatically pose the importance of the issues raised in this proceeding.

In furtherance of a uniform national labor policy in favor of enforcement of a strike settlement agreements, agreements to arbitrate and arbitration awards, as repeatedly asserted by this Honorable Court since the *Lincoln Mills* decision, 353 U. S. 448 (1957) the recent case of *Lion Dry Goods, supra*, should be interpreted to include enforcement of an arbitration award of a quasi-legislative nature issued under the authority of a valid strike settlement agreement. In construing Section 301 as not providing for the enforcement of arbitration awards of a quasi legislative nature, the Supreme Court of the Commonwealth of Puerto Rico decided contrary to and in direct conflict with the holding of this Honorable Court in the *Lions* case.

As a federal district Court put it referring to *Boston Printing, supra*, upon the authority of which the court below decided the instant case, "This case * * * is at odds with the rulings of the Supreme Court * * * *Division 892* v. *M. K. and O. Transit Lines*, 210 F. Supp. 351 (1962). If this case the district court of Oklahoma enforced an agreement to arbitrate the terms and conditions of employment under the provisions of Section 301.

The Supreme Court of Puerto Rico, expressly holds that as a matter of federal substantive law, arbitration awards of a quasi-legislative nature are not enforceable under Section 301 of the L. M. R. A., nor under Section 9(2)(c) of the Labor Relations Law of Puerto Rico. At the same time it expresses that it is not deciding whether the result would be the same if a local enterprise had been involved in this case. This assertion openly implies that the Court below mistakenly assumes preemption of the field of enforcement of arbitration awards in cases involving enterprises in commerce. This mistaken assumption of the court below poses the issue as to whether local law may superseded Section 301 in the field of enforcement of arbitration awards.[6]

In *Textile Workers* v. *Lincoln Mills*, 35 U. S. 448 (1957) where federal courts are required to fashion from the policy of the federal labor law a body of federal law for the enforcement of agreements within its ambit, it was recognized that "state law if compatible with the purpose of Section 301 may be resorted to in order to find the rule that will best effectuate the federal policy."

This principle is apparently followed by the court below in this case and as aforementioned at the same time expresses that the decision would not cover a similar situation in cases of local enterprises.

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[6] This issue is implied in the decision in an extremely ambiguous manner inasmuch as the court below expresses on the one hand that Section 9(2)(c) of the local act is not a labor arbitration law; and on the other hand implies that the result might have been different if this enterprise had been local in nature. However, in the light of the important issues raised by this decision it is worthwhile to mention this aspect.

Within the framework of the federal substantive law to be created in this field, there is no doubt that more embracing local enactments to enforce contractual obligations and arbitration awards are not excluded, and may be used by the judiciary, as a matter of federal law, to solve the fundamental problems and to avoid the harmful consequences of non-compliance by the parties of their contractual obligations in arbitration awards in general, and as it refers to the instant case, in an award of a quasi-legislative nature. *Charles Dowd Box Co.* v. *Courtney*, 368 U. S. 502 (1962).

The all embracing federal policy enunciated by this Supreme Court in the interpretation of Section 301 cases decided since 1957 and specifically in the light of the *Lion Dry Goods* case, requires that Section 301 be construed to apply in cases of enforcement of arbitration awards of a quasi-legislative nature, issued, as in this case, under a voluntary submission contained in a valid settlement agreement.

For all the above reasons, it is respectfully submitted that the Honorable Supreme Court of Puerto Rico was in error in denying enforcement of the arbitration award involved in this case under the authority of Section 301 of the Labor Management Relations Act as interpreted by this Court.

CONCLUSION

In view of the above, petitioner herein, as exclusive representative, duly certified at the time of the strike settlement agreement of March 17, 1961, and at the time of the issuance of the arbitration award, August 10, 1961, and also as party directly affected by the terms and provisions of said arbitration award, respectfully prays that this petition for a writ of certiorari should be granted.

Respectfully submitted,

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